



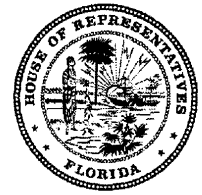
Joint Legislative Commission on Migrant and Seasonal Labor

Report to the Legislature

February 2006

Sen. J.D. Alexander
Alternating Chair

Rep. Baxter Troutman
Alternating Chair



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SUMMARY

The Legislative Commission on Migrant and Seasonal Labor (commission) began meetings in October 2005 to discuss its duties and authority and to present a forum for discussion of issues of concern to migrant and seasonal laborers and their dependents. The commission heard from various entities and stakeholders with an interest in migrant and seasonal labor issues, including advocacy groups, agriculture industry representatives, state agency personnel, and the farmworkers themselves.

Housing, employment, healthcare, safety and sanitation, education, transportation, and disaster relief surfaced as the topics of major concern. Testimony to the commission revealed that migrant and seasonal workers can be isolated and disadvantaged by language differences and unfamiliarity with government services that are available to them . . . services that can assist with the concerns mentioned above. A benefit from the commission hearings is that all parties are more aware of existing programs and services and how to access them. The commission acts to facilitate dialog among the parties seeking positive change.

This report takes a more in-depth look at the problems revealed and provides more detailed information about the agencies and programs that may offer some resolution to the concerns.

INTRODUCTION AND BACKGROUND

Originally established in 1970 as the Legislative Commission on Migrant Labor, the Legislative Commission on Migrant and Seasonal Labor (commission) was relatively inactive until renamed by the 2004 Legislature. In s. 450.201, F.S., the composition of the commission is specified, and s. 450.231, F.S., requires that a report be presented to the Legislature by February 1 of each year, beginning in 2006. The commission began meetings in October 2005 to discuss its duties and authority and to present a forum for discussion of issues of concern to migrant and seasonal laborers and their dependents. An ultimate purpose¹ of the commission is to improve the conditions for migrant and seasonal labor and to reduce the problems relating thereto.

The commission heard from various entities and stakeholders with an interest in migrant and seasonal labor issues. The laborers themselves were represented by several farmworker organizations² and advocacy groups³ who described their issues and concerns. Agricultural producers' representatives discussed the industry's concerns regarding the need for farm labor and issues of responsibility beyond the workplace. In addition, members of the Interagency FarmWorker Focus Group (group) reported the

¹ s. 450.221, F.S.

² Farmworker Association of Florida, Farmworker's Self-Help, United Farmworkers

³ e.g. Florida Catholic Conference, Florida Legal Services

group's goal is to determine, develop, and implement the best means of coordinating services provided to Florida's farmworkers.

It is difficult to develop accurate and consistent estimates of the number of migrant and seasonal workers in Florida due to worker turnover, the undocumented status of some immigrants, and the transient nature of the workers. The Migrant and Seasonal Farmworker Enumeration Profiles Study, Florida, published by Larson Assistance Services in September 2000, estimated that there were almost 300,000 farmworkers and family members living in Florida. Three-quarters of Florida's farmworkers were born outside of the United States and two-thirds of those workers (half of all Florida workers) were born in Mexico.

According to testimony heard by the commission, migrant and seasonal workers can be isolated and disadvantaged by language differences and unfamiliarity with government services. One of the commission's duties is ". . . to maintain a continuing consultative examination and supervision of the migrant labor programs relating to: living conditions; health, housing, and sanitation; labor laws; education; transportation safety; public assistance; and the coordination of federal, state and local programs administered by agencies of the executive branch of Florida government."⁴

Workers and advocates pointed out that many of the problems and concerns being discussed would be resolved if the issues pertaining to immigration status were addressed by the U. S. Congress. Such issues are not under the commission's purview for action except to urge Florida's Congressional delegation to work to resolve the concerns brought to them by workers, advocates, and employers.

The "findings" on the following pages describe, issues brought to the commission as areas of concern to Florida's migrant and seasonal worker community. Also in the Findings section is information presented by the state's agriculture

industry and the state agencies with regulatory responsibilities relating to migrant and seasonal workers.

FINDINGS

Housing

Generally, two types of farmworkers find agricultural work in Florida: migrant and seasonal workers. *Seasonal* workers usually settle down in one area and work in temporary or year-round agricultural jobs. Over half of these workers live with their families. *Migrant* farmworkers, who make up about 58 percent of all farmworkers, travel from place to place, often living in travel campers, locally available older manufactured homes, farm labor camps and/or housing provided by farmers. Almost 90 percent of migrant workers are estimated to be unaccompanied by family members, and often live with other single workers to save money.⁵

Because migrant farmworkers usually have low incomes and move around to follow crop harvests, finding housing is difficult. Crop harvest cycles mean that during down times, affordable housing for migrant farmworkers stands empty. Existing housing programs for farmworkers have not been structured to provide needed financing for housing units with such limited rental periods.⁶ Few housing options are available. The national Housing Assistance Council estimates that over 50 percent of farmworkers in Florida live in manufactured homes, most over 25 years old. Many of these units are seriously overcrowded and in severe disrepair. This leads to some workers being housed in labor camps that are owned or managed by farm labor contractors or "crew chiefs." Farmworkers and advocates raised concerns about the vulnerability of workers living in these conditions. Advocates and farmworkers voiced concerns regarding the difficulty in obtaining land for farmworker housing. They

⁴ s. 450.221, F.S.

⁵ Hurricane Housing Work Group Recommendations

⁶ Ibid.

want to see labor camps abolished and replaced with affordable housing.

The United States Department of Agriculture has federal migrant housing regulations that include: shelter, water supply, toilet facilities, sewage, laundry, proper lighting and refuse disposal. Farm labor advocates point out that many of the housing violations occur in rental units not on grower's land.

While there are several federal farmworker housing rental projects in Florida, these facilities provide accommodations for less than five percent of Florida's farmworkers. Some Florida growers provide housing for their employees; however, many farmworkers must compete for scarce rental units in the communities in which they work. According to the Shimberg Center for Affordable Housing, the state currently faces a shortage of more than 117,000 units for farmworkers and their families.⁷

The 2004 and 2005 hurricane seasons created a further crisis in farmworker's housing. The Hurricane Housing Work Group, chaired by Lieutenant Governor Toni Jennings, recommended the creation of a farmworker's housing recovery program that includes adequate financing through a no cost, forgivable loan structure targeted to units affordable to migrant workers at the lowest income levels. As described in the group's report, the program "should encourage local governments, nonprofit organizations, growers, and farmers to explore new ways to obtain necessary land and infrastructure for such housing. Growers and farmers will benefit economically for investing their own resources to have quality housing maintained in good condition on their land or nearby for farmworkers. Nonprofit organizations, who generally should own and manage units for these workers, are a critical partner in making such joint ventures successful. Efforts currently ongoing to develop a modular housing prototype that is inexpensive but provides safe, flexible

housing options for single workers or families should be encouraged."⁸ Proposed funding for the program was \$20 million, however this was not included in the final budget recommendation.

Florida Housing Finance Corporation⁹: Florida Housing Finance Corporation (Florida Housing) provides financing for the construction or rehabilitation of affordable rental housing in Florida. Since 1989, when Florida Housing funded its first farmworker's development, 40 farmworker housing developments have received financial assistance through its programs, with over \$167 million in funding and 1,950 housing units targeted to these households. Florida Housing programs contain a number of incentives to encourage the development of rental housing for farmworkers.

The appropriation from the State Housing Trust Fund (SHTF) to Florida Housing for 2005-06 was \$55,906,623. As Florida Housing is a public-private entity, the allocation of that line item appropriation is done by the Board of Directors. The SHTF funds finance the State Apartment Incentive Loan (SAIL) program¹⁰, which has a reservation of funds for commercial fishing workers and farmworkers. Other programs funded from SHTF include Homeownership Assistance Program (HAP), Predevelopment Loan Program (PLP), matching funds for HOME program within the United States Department of Housing and Urban Development, Housing Data Clearinghouse, Affordable Housing Study Commission, and the Affordable Housing Catalyst Program.

According to Florida Housing, developments that maintain 80 percent occupancy of residents qualifying as farmworkers are eligible for loans with more favorable terms and conditions than otherwise available through the SAIL Program. In an attempt to assure that Florida receives as much farmworker's housing funding as possible from the United States Department of Agriculture's

⁷ 2006, Florida Housing Finance Corporation, www.floridahousing.org

⁸ Hurricane Housing Work Group Recommendations

⁹ s. 420.504, F.S.

¹⁰ s. 420.5087(3)(a)

Rural Development programs, SAIL funding is prioritized for applicants who qualify for Rural Development 514/516 farmworker housing funds. From 2002 through 2005, ten percent of the SAIL Program's annual allocation was reserved for affordable housing targeted to farmworkers and commercial fishing workers. In 2005 alone, this amounted to \$6.9 million. Applicants applying for program assistance within this set-aside must set aside at least 40 percent of the units to farmworker households. Further, developments maintaining 80 percent occupancy of residents qualifying as farmworkers are eligible for loans with more favorable terms and conditions than otherwise available through the SAIL Program. In an attempt to assure that Florida receives as much farmworker housing funding as possible from the United States Department of Agriculture's Rural Development programs, SAIL funding is prioritized for applicants who qualify for Rural Development 514/516 farmworker housing funds.¹¹

In 2005, when hurricane housing recovery funding targeted to migrant farmworkers was not appropriated, Florida Housing took advantage of several single family deobligations of HOME funding to issue a Request for Proposals (RFP) with up to \$10 million available to provide very low cost rental housing specifically targeted to migrant farmworkers. The RFP promotes creative joint ventures between nonprofits, farmers, local governments and others, with funding provided as forgivable loans to eligible proposals. Advocates and farmworkers support the \$10 million initiative for migrant and seasonal farmworker housing and request that this be an annual appropriation over a decade. This was suggested as a step toward addressing the housing shortage.

Employment

A farm labor contractor, as defined in s. 450.28(1)(a), F.S., is a person who, for a fee, provides farmworkers, who may work directly under his or her control or under the control of a third person. Farmworkers are recruited by farm

labor contractors who serve as middlemen between the farmers who grow crops and the laborers who pick, package and sort them. Farm labor contractors are issued a certificate of registration from the Department of Business and Professional Regulation (DBPR) upon completion of a program of education and examination. The DBPR reports that there are 3,600 registered farm labor contractors in the state. Florida is home to more farm labor contractors than any state in the nation and also leads the nation in the number of farm labor contractors and assistants or "crew chiefs" who have lost their licenses to work because of labor violations. The commission has not heard an in-depth presentation or discussion of the concerns regarding the crew leader or crew chief system.

Testimony and anecdotal evidence presented to the commission revealed a number of concerns in the area of employment.

- A desire to "get rid of the crew chief system" - Farmworker advocates believe that substandard wages and working conditions for farmworkers would be remedied if the crew chief system were eliminated. A particular concern is the availability of licenses to family members of crew leaders who have had their licenses revoked.
- Due to the undocumented status of many farmworkers, protections available to other workers are not available to them. For example, undocumented workers who have paid into the Unemployment Compensation and Social Security systems are not eligible to collect from those systems.
- Most farmworkers do not receive overtime pay for their work because they are excluded from the overtime protections of the federal Fair Labor Standards Act.
- Social Security may be taken out of a farmworker's paycheck and then be pocketed by the farm labor contractor or crew chief. When the farmworker later applies to Social Security, there is no record of contributions.

¹¹ Florida Finance Housing Corporation

- Most farmworkers in Florida are not provided with health benefits, paid vacations, sick leave or pension plans.
- Farms are only required to have toilets if six or more workers are in the fields; some do not provide toilets even when large numbers of workers are in the fields.
- Despite being required by law, drinking water and water for washing hands often are unavailable to workers.
- Unemployment Compensation – Current law automatically excludes the worker’s most recent history in determining eligibility because of the definition of “base period”.

The base period is the period of time used for calculating whether or not unemployed individuals’ earnings are sufficient to qualify them for unemployment insurance.

Farmworker advocates believe the use of an alternative base period would more fairly reflect an individual’s complete earning history. They argue unemployment benefits in between seasons are critical to workers being able to sustain their families.

Healthcare

The ability to receive adequate healthcare for themselves and their families, especially the children, is another issue of concern to Florida’s migrant and seasonal labor population. The Legislature created Florida’s KidCare program during the 1998 Legislative Session in response to the creation of Title XXI of the Social Security Act [also known as the State Children’s Health Insurance Program (SCHIP)]. Enacted as part of the Balanced Budget Act of 1997, Title XXI provides insurance to uninsured children in low-income families either through Medicaid expansion, a separate children’s health program, or a combination of both. The program is primarily targeted to uninsured children under age

19 whose family income is at or below 200 percent of the federal poverty level (\$38,700 for a family of four in 2005).

Florida’s KidCare program is designed to maximize coverage for eligible children and federal funding participation for Florida, while avoiding the creation of an additional entitlement program under Medicaid. KidCare is an “umbrella” program that currently includes the following four components: Medicaid for children, Medikids, the Florida Healthy Kids program, and the Children’s Medical Services (CMS) Network, which includes a behavioral health component.

The federal State Children’s Health Insurance Program prohibits matching funds for those children who are deemed to be “non-title XXI eligible.” This includes children of state employees and immigrant children who do not meet a certain status¹². Congress does allow states to cover the children with state and local funds, however, there is no federal match allowed. These federal restrictions on eligibility are codified in s. 409.814, F.S.

Prior to 2004, the state provided a fixed amount of money to allow some Title XXI non-eligible children to participate in the KidCare program. The Legislature appropriated \$13 to \$16 million annually with \$7 million of that amount required through local government match. As children left the program, new children were allowed to fill the empty slots. However, enrollment growth quickly increased and concerns were raised that the program’s costs would eventually exceed the state’s federal allocation for Title XXI eligibles, resulting in a significant need for General Revenue funds in the future to cover these

¹² Section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) provides that certain immigrants who enter the United States on or after August 22, 1996 are not eligible to receive federally-funded benefits, including Medicaid and the State Children’s Health Insurance Program (SCHIP), for five years from the date they enter the country with a status as a “qualified alien.”

enrollees. To address this concern, the Legislature adopted a “no growth” enrollment policy in fiscal year 2003-2004, and waiting lists for enrollment were established for the KidCare program. By January 30, 2004, the cumulative Title XXI waiting list had grown to over 90,000 children.

To address this waiting list, the 2004 Legislature passed SB 2000 (ch. 2004-270, Laws of Florida), which provided funding to eliminate the waiting list. The bill also eliminated continuous enrollment and replaced it with no more than two 30-day open enrollment periods per fiscal year (September 1-30 and January 1-30) on a first-come, first-served basis using the date the new open enrollment application is received. Each open enrollment period was only allowable if the Social Services Estimating Conference estimated that KidCare caseloads were at a level that an open enrollment would not exhaust the state’s allotment of federal funds through the remainder of the program’s authorization (2007).

The limit of two open enrollment periods significantly restricted the possibility of any new children entering the program. This policy change coupled with attrition of children who do not qualify under Title XXI for federal matching dollars resulted in the accumulation of surplus funds within the Healthy Kids Corporation from unused local match dollars and surplus state matching funds for Title XXI eligible children who were not entering the program. In addition, a policy change¹³ eliminated the ability for any new non-title XXI eligible children to enroll in the program as other children left. This essentially closed the program to most farmworker children, unless they were able to qualify as full pay, which requires the full premium and administrative costs to be paid by the recipient’s family.

The Social Services Estimating Conference (Conference) convened on November 1 and 10, 2004, to adopt a caseload and expenditure forecast for the KidCare Program through October 2007. The Conference found that, in general, caseloads were on a downward trend as children leaving the

program were not being replaced by new enrollees. The Conference principals recommended an open enrollment period that was held in January 2005.

Based on the number of applications received and processed during the open enrollment in January 2005, Healthy Kids Corporation administrators determined that the limited open enrollment process would not fill all available slots and, at the rate of attrition experienced at that time, and that the state would not exhaust its federal resources for the remaining years of the program’s current federal authorization (2007). The Legislature considered this information and approved reopening the KidCare program to year round, continuous enrollment in the 2005 Regular Session (ch. 2005-123, Laws of Florida).

The Healthy Kids Board and KidCare Coordinating Council recently voted to recommend certifying surplus dollars forward to be used as a match next year, and the Coordinating Council recommended covering children not eligible for Title XIX (Medicaid) or Title XXI. On December 2, 2005, the Florida KidCare Coordinating Council adopted recommendations for its fiscal year 2006-2007 annual report and its recommendations to the Governor and the Legislature. They recommended that the Florida KidCare program be fully funded, including its annualization needs and projected growth needs in order to maximize the use of Florida’s Title XXI federal funds. In addition, the Council recommends the state allow coverage in all of the Florida KidCare program components for children with family incomes of up to 200% of the federal poverty level who are not eligible for Title XIX or Title XXI, using only state and local funds with no federal match. This proposal would allow some children of farmworkers to enroll in any component of the KidCare program that is fully funded through state and local dollars.

Safety and Sanitation

¹³ Ch. 2004-270, Laws of Florida

Issues related to the safe storage, handling, and use of pesticides and other agrichemicals are a high priority for farmworkers and growers alike. Pesticide exposure is a major concern among farmworkers. While exposure to pesticides, either through handling or application, working in fields recently sprayed, or through spray drift, can cause a variety of health problems, the importance of using proper handling techniques to minimize the risk of exposure cannot be overstated. Farmworkers and growers agree that improved farmworker education is key to further reducing risks associated with pesticide usage and exposure. Growers also support expanding existing regulatory programs administered by the Department of Agriculture and Consumer Services to ensure compliance with existing federal and state requirements.

The 1994 Legislature adopted the Florida Agricultural Worker Safety Act,¹⁴ which authorized the Department of Agriculture and Consumer Services to adopt by rule the requirements of the federal Environmental Protection Agency's Labeling Requirement for Pesticides and Devices and the Worker Protection Standards for Agricultural Pesticides. The Legislative intent, as expressed in s. 487.2021, F.S., reads, "It is the intent of the Legislature to ensure that agricultural workers employed in the state receive protection from agricultural pesticides. The Legislature intends to ensure that agricultural workers be given information concerning agricultural pesticides." Health and safety information about pesticides used in the working environment must be provided in a language understandable to the worker.

According to testimony presented to the commission, sometimes farmworkers are not given the legally-required information regarding pesticides and are not given safety training. In addition, even when they have the training, farmworkers are sometimes forced to work quickly and have little or no time to take precautions. Many do not complain because they fear losing their jobs. The dangers of pesticide

exposure can be compounded by problems of field sanitation and poor work hygiene. Farmworkers and advocates believe that, in general, there are adequate laws in place to protect workers, but there is a serious lack of enforcement due to limited resources and permissive, weak penalties for violations.

Education

As students, children of migrant and seasonal laborers have various risk factors in common with other disadvantaged students such as poverty, poor health, and learning disabilities. They also face challenges exclusive to their situations that include disruption of education, poor record-keeping between schools, cultural and language difficulties, and social isolation. There are an estimated 5,000 undocumented high school seniors in Florida this year according to the Florida Immigrant Advocacy Center.

According to farmworker advocates, the majority of these students have lived most of their lives in the United States. Many have siblings who are United States citizens. Most are fluent in English, are part of American culture, and want to complete their educations. They have few or no close ties to, or familiarity with, any country but the United States.

In 1982, the U.S. Supreme Court¹⁵ held that all students, regardless of immigration status, have the right to attend elementary, middle, and secondary schools. Students who choose to continue their education at a college or university must then abide by both federal immigration laws and each state's policy. Florida state colleges and universities charge a different tuition rate for Florida residents and non-Florida residents. In order to be designated a resident for tuition purposes, a person entering college or, if that person is a dependent child, his or her parents must have established legal residence in this state and maintained such residence for at least one year prior to enrollment. Therefore, undocumented immigrant college students in

¹⁴ ss. 487.2011-.2071, F.S.

¹⁵ Plyler v. Doe, 457 u.s. 202(1982)

Florida are not eligible for in-state tuition regardless of the number of years they have lived in Florida. There is no consistency among institutions within the state regarding the determination if undocumented students are accepted as out-of-state students. Some universities, such as the University of South Florida, accept them as out-of-state students; others do not accept undocumented students at all.

Over the last three years, Oklahoma, Kansas, Washington, New York, Texas, California, New Mexico, Illinois and Utah have all passed state laws allowing undocumented students to pay the same in-state tuition rate as other residents. The laws differ slightly between states, as some statutes offer state financial aid benefits along with the tuition classification, while other statutes are purely for tuition purposes.

Lawsuits have been filed in both Kansas and California claiming the policies these states have adopted are in conflict with current federal immigration laws. The Kansas case¹⁶ was decided in favor of the state law allowing undocumented aliens to pay in-state tuition. The California case has yet to be decided.

Because they live and work in Florida, farmworkers want their children to be allowed to obtain a higher education at the same cost as state resident students. Many farmworker children know only Florida as “home” and are graduating from the state’s high schools. According to farmworkers and advocates, affording in-state tuition is a struggle for most farmworker families, but non-resident tuition is impossible.

Transportation

Florida law requires applicants for a new or renewed driver’s license to be citizens or to show “legal presence” in the United States. This requirement results in thousands of uninsured, untrained, undocumented drivers on Florida’s roads. According to farmworker’s advocates, if

state residents, regardless of immigration status, were allowed to obtain driver’s licenses, public safety would be enhanced by maximizing the number of residents who hold valid, official identification and who are properly trained and insured.

An Associated Press review of state and federal records found transportation-related accidents to be the leading cause of work-related deaths for Florida’s farmworkers. Many of the farmworkers do not speak English and cannot drive themselves because they do not have a car or driver’s license. Farmworkers often do not check to see if the vehicles they get into have been insured or inspected as required by law or if the driver has a license.

Florida law¹⁷ currently exempts the mandatory use of seatbelts for buses and vehicles that weigh more than 5,000 pounds, such as passenger vans, although all front-seat passengers must use them. The majority of accidents involving farm workers being transported to or from work have occurred in passenger vans. California ended a seatbelt exemption for agricultural vehicles in 1999 after an accident involving an overcrowded van killed 13 farm workers. The following year, for the first time since 1992, there were no California highway deaths resulting from farm labor vehicle accidents.

Legislation¹⁸ has been introduced this session (2006) relating to farm labor vehicles. If passed as introduced, all vehicles used to transport farmworkers will be required to be equipped at each passenger position with a seatbelt before January 1, 2008. Additionally, the bill requires the owners and operators of the vehicles to post notification instructing all passengers to wear the seat belts provided.

Disaster Relief

According to Florida Department of Agriculture and Consumer Services estimates, Florida’s agriculture industry sustained at least \$2.1 billion

¹⁶ Day v. Sebelius, 04-4085.RDR, July 5, 2005

¹⁷ Ch. 316, F.S.

¹⁸ House Bill 255, Senate Bill 258

in damages, including lost crops, as a result of the 2004 hurricanes. During the 2005 hurricane season, hurricanes Dennis, Katrina, and Wilma brought more destruction to crops, farm infrastructure, and to homes of many farmworkers.

Many farmworkers and their families do not qualify for regular disaster assistance because they do not have proper documentation. Such assistance includes Food Stamps, disaster employment assistance, FEMA assistance, housing, etc. Some grant money is provided to non-profit organizations that are not required to ask the immigration status of a farmworker. However, even those programs are sometimes not utilized by people who are not documented workers due to the fear that receipt of disaster assistance of any kind will count against them as they seek legalization. Advocates propose that persons living in an area included in the declaration of a disaster be assured that they are eligible to request federal disaster assistance, regardless of their immigration status.

State Agency Responsibilities

Among the many state agencies with responsibilities relating to migrant and seasonal labor issues are:

Department of Business and Professional Regulation – Through its Farm Labor Program Unit, DBPR is responsible for state administration of the federal Migrant and Seasonal Agricultural Worker Protection Act, including administration of the farm labor contractor registration program.

The Farm Labor Program processes and issues certificates of registration to farm labor contractors (FLC) who engage in farm labor contracting activities in the State. The federal Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and the Florida Farm Labor Registration Law, Chapter 450, Part III, Florida Statutes, require any person who recruits, transports, supervises, and/or pays workers to perform harvesting activities, obtain a certificate of registration before conducting such activities.

The Farm Labor Registration and Testing Unit administers both the state and federal programs. Under the state program, an applicant must take and pass a test prior to obtaining a state license.

Both the state and federal registration programs provide protection to migrant and seasonal farm workers by ensuring that liable farm labor contractors and employees are properly registered to help ensure that employability and safety standards are met.¹⁹

Agency for Workforce Innovation – The AWI administers the federal Workforce Investment Act, acts a clearinghouse for worker complaints received through a toll-free hotline, and handles Unemployment Compensation issues.

Department of Agriculture and Consumer Services – The DACS administers the Florida Agricultural Worker Safety Act, including enforcement of federal worker protection regulations. Inspections and investigations are performed to determine compliance with requirements covering worker protection, pesticide registration, proper pesticide use and applicator licensing. This involves conducting both for cause and routine inspections of pesticide manufacturers, distributors, dealers, and users and taking appropriate actions if violations have occurred. Warning letters, fines, license suspension, probation or revocation, as well as informational letters and other measures are included in these functions. Through a cooperative agreement with the Environmental Protection Agency (EPA), the Bureau also documents violations of federal pesticide laws and rules. Case files which involve such violations may be submitted to the EPA for enforcement action.²⁰

Department of Health – The Migrant Housing Program (program)²¹ is a core environmental health program within the Department of Health (DOH). The program is responsible for permitting

¹⁹ DBPR website

²⁰ DACS' Bureau of Compliance Monitoring

²¹ Ch. 381, F.S. and Ch. 64E-14, F.A.C.

and inspecting migrant and seasonal farmworker housing to ensure minimum safety and sanitation standards. These standards relate to the construction, operation, and maintenance of migrant labor camps and residential migrant housing.

The program is implemented collaboratively by the Bureau of Community Environmental Health (bureau) and local county health departments (CHDs). The DOH's expertise in the program is in the areas of health, safety and sanitation. CHDs implement the direct services aspect of the program, including conducting investigations of unpermitted or substandard housing, issuing permits, performing routine inspections and reinspections, providing training to owners and operators of permitted housing, and taking enforcement action against operators when education and routine inspections fail to ensure compliance with departmental requirements. Enforcement action can range from issuing citations and imposing administrative fines to revoking permits.

At the state level, the bureau is responsible for statewide program planning; assisting with the development and revision of state statutes; providing training to health department staff; and developing and maintaining program rules, manuals, policies, procedures and forms. The bureau also monitors and evaluates the effectiveness and efficiency of CHD programs and coordinates activities with CHDs and other agencies to ensure consistency in the application of rules, interagency agreements and other matters necessary to accomplish programmatic goals and objectives.

Concerns regarding pesticide use and associated health problems have heightened the need to conduct surveillance to capture and evaluate data on pesticide-related injury and illness and to develop intervention and prevention strategies. The DOH maintains a surveillance program, the Pesticide Exposure Surveillance Program (PESP), to address these issues.

Pesticide-related illness and injury is a reportable disease in Florida.²² Existing law stipulates that healthcare providers and laboratory personnel report to the DOH the existence or suspicion of diseases/conditions on the current list of reportable diseases. Currently, the DOH operates a toll-free statewide Pesticide Surveillance Hotline (1-800-606-5810) for reporting pesticide exposures. The service is currently available only in English, but interpreters are available to assist non-English speaking callers.

The PESP currently operates solely on state funds. This program was originally funded with federal funds from the Center for Disease Control and Prevention and the National Institute of Occupational Safety and Health. The federal funds (\$400,000) were lost in 2002.

Department of Community Affairs – The DCA works in conjunction with the Florida Housing Finance Corporation on housing issues for farmworkers.

Department of Financial Services – The DFS handles Workers' Compensation issues relating to farmworkers.

Department of Highway Safety and Motor Vehicles – The DHSMV handles farmworker's vehicle registration and driver's license issues.

Interagency Farmworker Focus Group

The Department of Business and Professional Regulation, Agency for Workforce Innovation, Department of Health, Department of Agriculture and Consumer Services, Department of Community Affairs and the Department of Financial Services, through a Memorandum of Understanding, compose an inter-agency farmworker focus group. The group's goal is to determine, develop and implement the best way of coordinating services delivered to Florida's farmworkers.²³

²² s. 381.003, F.S., and Ch. 64D-3, F.A.C.

²³ Interagency Farmworker Focus Group charter

The group has developed and implemented a centralized referral system to record farmworker complaints and to refer them to the appropriate agency for investigation and resolution. It has also implemented a statewide toll free number for workers to make complaints, remaining anonymous if desired.

In a December 2005 report, the group reported the following accomplishments and goals:

- increased promotion of the Toll Free Complaints Hotline to farmworkers through the dissemination of posters, brochures and business cards; (Advocates and farmworkers suggest that the hotline be staffed for night and weekend hours when workers are able to call. They would also like to see more timely investigation and response to complaints.)
- continuous updating of an Interagency Resource Directory to assist its clients in a form that is easy to update and share;
- continued discussion and resolution by consensus of past, current and proposed issues at monthly business meetings;
- further establishment of agency liaisons and interagency agreements with local law enforcement and other impacted entities to better serve the farmworker community;
- continued provision of damage assessment and relief to farmworkers in hurricane impacted areas;
- continued participation by member agencies in numerous local and statewide expositions and community outreach functions to inform farmworker communities of the collective efforts in proactively enforcing laws for the benefit and protection of the whole agricultural community; and
- continual outreach to, and recruitment of, agencies to become members of the Interagency Farm Worker Focus Group.

Florida's Agriculture Industry

By their own testimony to the commission, some of the most important advocates for Florida's farmworkers are their employers, the growers and farmers of the state. Migrant and seasonal farmworkers are vital to the industry, and most employers work to protect the welfare of the workers. The industry has supported legislation to register and regulate farm labor contractors and asked the Legislature to appropriate funds to hire compliance officers. Industry representatives have worked with the Legislature and Governor to improve migrant labor housing, field sanitation standards, and pesticide safety standards. In addition, they have asked for legislative appropriations and provided donations for daycare centers for migrant children. In partnership with the University of Florida's Institute of Food and Agricultural Sciences, the industry has published a handbook to educate farmworkers about employment regulations.

The agriculture industry also identified a number of its concerns regarding migrant and seasonal farmworkers:

- Lack of education, many with less than fourth grade education
- Illiteracy
- They do not speak English
- Rapid turnover in the workforce
- No allegiance to agriculture itself or to any particular employer.

The United States Department of Agriculture reports that an average farm and livestock worker makes an average of \$8.56 per hour. Testimony revealed that the industry believes this to be a very competitive wage for an entry level laborer with no skills. A tenuous situation for the industry is created by the fact that more than 80 percent of the workforce is here illegally. The industry supports a guest worker program and measures to

allow current farmworkers to earn legal status. Such a program, they believe, would benefit the workers who may be afraid to complain of working conditions because they are illegal, and also benefit the industry by providing a stable workforce.

Another industry concern is worker housing, which continues to deteriorate. This deterioration has been accelerated by recent hurricanes. The industry strongly supports funding for additional housing for farmworkers. The industry is working on a potential program for non-profit organizations to partner with growers to provide safe and sanitary living conditions for farmworkers. The grower would provide the land and infrastructure and the nonprofit would supply the housing facility.

The industry also has an interest in development of a "farm labor code of practice" where an independent auditor would come to a facility to audit farm labor practices. If the facility passes, it could be awarded a seal of approval which would be an asset when attracting buyers such as restaurants.

POLICY RECOMMENDATIONS

Issues related to housing, safety and sanitation, transportation, and healthcare were identified as priorities by the commission.

Housing

- Provide state funding for affordable farmworker housing as recommended by the Hurricane Housing Work Group -- \$20 million
- Support agriculture industry partnership with non-profit organizations: industry provides land and infrastructure, non-profit provides housing

Safety and Sanitation

- Support Department of Agriculture and Consumer Services' legislative budget request for 10 additional positions in the Bureau of Compliance Monitoring
- Support increased educational efforts to meet the requirements of the Florida Agricultural Worker Safety Act
- Endorse a review of penalties and their adequacy
- Endorse continuation and expansion of the worker complaint hotline
- Support increased sanitation inspection efforts, both in the field and in housing facilities

Transportation

- Endorse legislative efforts to adopt a general policy for seatbelts in farm labor vehicles

Healthcare

- Endorse funding of KidCare benefits for all children of migrant and seasonal laborers

Issues relating to employment, education, disaster relief, and regulation were listed as items of concern but in need of more investigation and discussion.

Employment

- Support creation of a Farm Labor Code of Practice proposed by the agriculture industry: independent auditors would audit farm labor practices at agricultural facilities
- Consider the possibility of additional oversight of farm labor contractors by

the Department of Business and Professional Regulation

- Support efforts for a federal guest worker program – Florida’s agriculture industry and farmworker associations both recognize the need for reform of the nation’s immigration system.

Education

- Endorse modification of the non-resident tuition legislation for children of migrant and seasonal laborers

Disaster Relief

- Support disaster assistance (food, housing, employment) for farmworkers

Regulation

- Investigate possibility of consolidating under one agency, as was done when the Division of Aquaculture was created in the Department of Agriculture and Consumer Services, all regulatory and enforcement programs and responsibilities affecting migrant and seasonal workers
- Urge that, in addition to advocacy groups, farmworkers themselves be consulted and included in discussion of issues that impact them directly

